

Chapter 15A-33 - CONDITIONAL USE PERMIT

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Chapter 15A-33 - CONDITIONAL USE PERMIT

15A-33-01 Purpose

The purpose of conditional uses is to allow a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts or, if the detrimental impacts or effects cannot be mitigated or eliminated, to prohibit such use.

15A-33-02 Application and Review Process

A Conditional Use Permit is required for all uses listed as conditional uses in each zone district or elsewhere in the Development Code. No person or entity shall operate or conduct a use designated as a conditional use within the applicable zone district without first obtaining a Conditional Use Permit. Applications for a Conditional Use Permit are required to comply with all requirements of this ordinance for review and approval, including the requirements for a building permit, site plan, or subdivision approval procedures and any other applicable requirements of this Code including but not limited to guarantees. The Director shall determine when an application is complete.

- A. **Development Review.** To help expedite review of a conditional use proposal, prior to submitting an application for a Conditional Use Permit, interested persons may meet informally with the Community Development Department to become acquainted with the substantive and procedural requirements of this Code.

If requested by staff, persons proposing a conditional use shall attend a Development Review Meeting. At the meeting, the various departments will initially assess the development proposal and information submitted and make suggestions with respect to the proposal's compliance with the provisions of the appropriate regulations of this Code, the International Building Code and any other applicable ordinances or codes of Sandy City; suggest possible means of mitigating or eliminating any detrimental impacts or effects; and provide information concerning the City's review requirements and procedures.

Staff members may request that additional studies or information, such as geotechnical studies, traffic impact analyses, market feasibility analyses, noise impact analyses, or water needs analyses be submitted together with the application for conditional use review.

- B. **Application.** The property owner or authorized agent thereof shall submit the following, as determined necessary by staff:
1. A General Development Application together with all required information for a Conditional Use Permit.
 2. A General Development Application together with all information required for site plan review (where site plan review is required); or subdivision review (where subdivision review is required).
 3. Sufficient information to demonstrate that the general and specific requirements and standards of this

Code will be met by the construction and operation of the proposed building, structure, or use.

4. Plats, plans and/or drawings drawn to scale showing the location and dimensions of buildings, streets, and other improvements on or near the subject property that may be affected by the proposed use and showing the nature and extent of those effects.
 5. Fee(s) established by City Council.
- C. **Preliminary Review.** Upon submittal of a conditional use application and supporting information, it shall be reviewed by staff to determine if it is complete and complies with all requirements of this Code. If the proposed conditional use also requires site plan or subdivision review, it shall proceed through the preliminary review process as set forth for those applications.
- D. **Planning Commission Review.** When preliminary review of the conditional use and site plan or subdivision (if required) have been determined to be complete and in compliance with all requirements, the application(s) together with all supporting information, will be forwarded to the Planning Commission for review at a public meeting. The Director or Planning Commission may schedule it to be reviewed at a public hearing when, and if, they determine it appropriate.

The Planning Commission shall review the application(s) including all information to determine if the General Standards have been complied with, and/or all impacts and detrimental effects have been addressed and to receive public input, when required, concerning detrimental impacts or effects and their mitigation or elimination. Additional studies/analyses may be required to enable the Planning Commission to determine what detrimental impacts or effects need to be addressed, and the Planning Commission may establish additional conditions to address them.

- E. **Final Review.** If the Planning Commission grants a Conditional Use Permit and establishes additional requirements and conditions, the applicant shall submit all necessary documents that comply with all the ordinances, requirements, corrections, additions, conditions, etc. to the Community Development Department to determine compliance.

15A-33-03 General Standards for Conditional Uses

No conditional use may be approved unless the proposed use complies with the applicable provisions of this Code, State and Federal law; and the following standards that apply to all conditional uses

- A. **Equivalent to Permitted Use.** Any detrimental impacts or effects from the proposed use on any of the following shall not exceed those that could reasonably be expected to arise from a use that is permitted in the district:
1. The health, safety, and welfare of the City and its present and future inhabitants and businesses.
 2. The prosperity of the City and its present and future inhabitants and businesses.
 3. The morals, peace and good order, comfort, convenience and aesthetics of the City and its present and future inhabitants and businesses.

4. The tax base.
 5. Economy in governmental expenditures.
 6. The State's agricultural and other industries.
 7. The urban and non-urban development.
 8. Access to sunlight for solar energy devices.
 9. Property values.
- B. **Impact Burden.** Any cost of mitigating or eliminating detrimental impacts or effects in excess of those which could be reasonably expected to arise from a permitted use shall become a charge against the development so as not to constitute a burden on the municipality, surrounding neighbors, or adjacent land uses.
- C. **Conform to the Objectives of the General Plan.** The proposed conditional use shall not limit the effectiveness of land use controls, imperil the success of the General Plan for the community, promote blight, or injure property values.

15A-33-04 Conditions

In order to achieve compliance with the standards set forth herein, the City may impose conditions that address:

- A. Size, configuration and location of the site and the proposed site plan layout.
- B. Proposed site ingress and egress to existing and proposed roads and streets.
- C. The adequacy, provision, relocation, or protection of public facilities and amenities, including roads and streets, culinary water, secondary water, sanitary sewer, storm drainage, public safety and fire protections, and other utilities.
- D. Design, location and amount of off-street parking, loading areas and solid waste disposal and collection areas.
- E. Site circulation patterns for vehicular, pedestrian and other traffic.
- F. Mass, size, number, location, design, exterior features, materials, and colors of buildings, structures and other facilities.
- G. The location and design of all site features, including proposed signage, lighting, and refuse collection.
- H. The provision of useable open space, public features, and recreational amenities.
- I. Fencing, screening and landscape treatments, and other features designed to increase the attractiveness and safety of the site and protect adjoining property owners from noise, visual, and other impacts.

- J. Measures directed at minimizing or eliminating possible nuisance factors including, but not limited to noise, vibrations, smoke, dust, dirt, debris, plant materials, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation.
- K. Measures designed to protect the natural features of the site including wetlands and drainage ways, ground water protection, soils, wildlife, and plant life.
- L. The regulation of operating hours for activities affecting normal schedules and functions.
- M. Identifying a time for regular review and monitoring, as determined necessary, to ensure the use continues to operate in compliance with all conditions and requirements of approval.
- N. Measures to ensure compliance with all conditions and requirements of approval including but not limited to bonds, letters of credit, improvement agreements, agreements to conditions, road maintenance funds, and restrictive covenants;
- O. Such other conditions determined reasonable and necessary by the City to allow the operation of the proposed conditional use, at the proposed location in compliance with the requirements of this Code.

15A-33-05 Determination

A Conditional Use Permit shall be approved if conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards set forth herein. If the reasonably anticipated detrimental impacts or effects of the proposed conditional use cannot be substantially mitigated or eliminated by the proposal or the imposition of conditions to achieve compliance with the standards set forth herein, the Conditional Use Permit may be denied.

15A-33-06 Modification or Revocation

All approvals of Conditional Use Permits are conditional upon additional reviews, after the use has been established, to determine if the actual detrimental impacts and effects have been mitigated or eliminated to meet the General Standards set forth herein and to evaluate whether they continue to be effective in doing so. If the use does not meet the General Standards, additional conditions may be imposed to achieve compliance. The Planning Commission, on its own motion or upon a staff recommendation or after receipt of an applicant's request, may hold a hearing upon the question of modification or revocation of a Conditional Use Permit granted under or pursuant to the provisions of this Section. The Planning Commission may modify the conditions under which the conditional use was granted or revoke the Conditional Use Permit if the Commission finds:

- A. The actual detrimental effects or impacts are greater than anticipated.
- B. The permit was obtained by misrepresentation or fraud.
- C. The use for which the permit was granted has now ceased for at least six consecutive calendar months.
- D. One or more of the conditions of the permit have not been met.

- E. The holder or user of the Conditional Use Permit has failed to comply with any City, State or Federal law governing the conduct of the use.
- F. The holder or user of the Conditional Use Permit has failed to construct or maintain the site as shown on the approved plan.
- G. One or more of the General Standards have not been met.

15A-33-07 Building Permit

After the Community Development Department determines that the documents, information, site plan (where required) or subdivision plat (where required) comply with all the requirements established by the departments, agencies, Planning Commission, and this Ordinance, the Director may approve an application for a building or other permit or business license for those uses that do not require construction.

15A-33-08 Expiration

A Conditional Use Permit shall expire and become null and void if the permit has not been implemented by the recipient within one year of the date of approval. The permit shall be considered implemented if the recipient either engages or participates in the conditional use or completes substantial construction on the project for which the permit was granted. The Community Development Department may grant a maximum of two extensions of up to six months each if it finds that the use, with the conditions previously imposed by the Planning Commission, will still be in compliance with the General Standards. If the Department finds that the use no longer complies with those standards, the recipient may request that the Planning Commission review the request for an extension. The Planning Commission may grant a maximum of two extensions of up to six months each if it finds that the use, with the conditions previously imposed, or with the imposition of additional conditions, will still be in compliance with the General Standards.

15A-33-09 Conditional Use Appeals

- A. All appeals from decisions of the Planning Commission regarding Conditional Use Permits shall be reviewed by the Board of Adjustment. (Ord 16-15, Amended 3-28-2016)